

FILED

JUN 14 2019

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA,) Case No. CR 19-234 HSG (KAW)
14 Plaintiff,)
15 v.) [PROPOSED] ORDER OF DETENTION
16 CARLOS ALBERTO LIMON-LOMELI,) PENDING TRIAL
17 Defendant.)

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19 A grand jury has charged defendant Carlos Alberto Limon-Lomeli with Possession With Intent to
20 Distribute 500 grams or more of a Mixture and Substance Containing a Detectable Amount of
21 Methamphetamine in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A). Because
22 Mr. Limon-Lomeli stands charged with a violation of the Controlled Substances Act for which the
23 maximum term of imprisonment is ten years or more, there is a rebuttable presumption that no condition
24 of combination of conditions will reasonably assure his appearance as required or the safety of the
25 community. *See* 18 U.S.C. § 3142(e)(3).

26 On May 17, 2019, Mr. Limon-Lomeli had an initial appearance before the undersigned. The
27 Government moved for his detention pending trial pursuant to 18 U.S.C. § 3142(f)(1). The Court held a
28 detention hearing on May 29, 2019 at 9:30 a.m. and a continued detention hearing on June 6, 2019 at

1 10:00 a.m. At the hearings, counsel for the defendant and counsel for the Government submitted proffers
2 and argument regarding pretrial detention and what conditions, if any, would reasonably assure the
3 appearance of the defendant as required and the safety of the community. The Court considered those
4 proffers and arguments, as well the memorandum the United States filed on June 5, 2019 (ECF No. 10)
5 and a Pre-Bail Report prepared by Pretrial Services as well as addenda to that Pre-Bail Report.

6 This written order supplements the Court's findings and oral order at the detention hearing and
7 serves as written findings of fact and a statement of reasons as required by Title 18, United States Code,
8 Section 3142(i)(1).

9 In addition to those findings made on the record, the Court adopts the factual findings set forth in
10 the Pre-Bail Report and also finds the following:

11 (1) the nature of the offense with which the defendant stands charged gives rise to a rebuttable
12 presumption that no condition or combination of conditions will reasonably assure his appearance or the
13 safety of the community, *see* 18 U.S.C. § 3142(e)(3);

14 (2) the defendant is a citizen of Mexico who has no legal status in the United States;

15 (3) the defendant remained in the United States in contravention of the terms of the visitor visa
16 that was issued to him;

17 (4) the defendant has significant ties to Mexico, the country where he has spent most of his life;

18 (5) the defendant is the subject of an outstanding warrant in Contra Costa County for failure to
19 appear;

20 (6) the defendant has been involved with the distribution of methamphetamine, a dangerous
21 narcotic, since at least 2017;

22 (7) while the defendant was being investigated by federal agents in 2017, he located and removed
23 a tracker those agents had placed on his vehicle;

24 (8) at the time of his arrest by state authorities in April 2019, the defendant was in possession of a
25 counterfeit Legal Permanent Resident card and a counterfeit Social Security card, and those identification
26 documents are unaccounted for;

27 (9) also at the time of his arrest by state authorities in April 2019, the defendant was in possession
28 of a bulletproof vest and apparel venerating drug traffickers;

1 (10) the defendant has been engaged in a sexual relationship with a minor for several years in
2 violation of California law, and that relationship is ongoing;

3 (11) since his arrest on the instant charges, the defendant has expressed a desire to move to Mexico
4 with that minor and purchase land there;

5 (12) also since his arrest, the defendant has advised members of his family to encourage another
6 person to flee to Mexico because law enforcement is aware of that person's criminal activity;

7 (13) the weight of the evidence against the defendant is strong, given that approximately two
8 pounds of methamphetamine was found in his vehicle, he admitted to knowingly possessing the
9 methamphetamine, and he advised law enforcement of a storage location where they later found more
10 than five kilograms of methamphetamine.

11 In light of the foregoing findings, the Court finds that even assuming without deciding that Limon-
12 Lomeli has come forward with evidence sufficient to rebut the statutory presumption of detention, *see*
13 *United States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008), the Government has proven by a preponderance
14 of the evidence that no condition or combination of conditions of release will reasonably assure the
15 defendant's appearance as required and by clear and convincing evidence that no condition or combination
16 of conditions of release will reasonably assure the safety of any other person and the community.

17 For these reasons, pursuant to Title 18, United States Code, Section 3142(i),

18 IT IS HEREBY ORDERED that the defendant is remanded to the custody of the Attorney General
19 or to the Attorney General's designated representative for confinement in a corrections facility separate,
20 to the extent practicable, from persons awaiting or serving sentences or being held in custody pending
21 appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense
22 counsel. On order of a court of the United States or on request of an attorney for the Government, the
23 person in charge of the corrections facility must deliver the defendant to a United States Marshal for the
24 purpose of an appearance in connection with a court proceeding.

25 IT IS SO ORDERED this 14th day of June, 2019.

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28 THE HONORABLE KANDIS A. WESTMORE
UNITED STATES MAGISTRATE JUDGE